



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 7, 1997

Ms. Tracy B. Calabrese
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77521-1562

OR97-2470

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 110175.

The City of Houston (the "city") received a request for a specific taped conversation. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Chapter 143 of the Local Government Code sets forth civil service rules for municipal fire and police departments. Subchapter G of that chapter sets forth provisions applicable to municipalities with a population of 1.5 million or more, including the City of Houston. Section 143.1214(b) of the Local Government Code requires "the department" to withhold from disclosure "an investigatory document that relates to a disciplinary action against a . . . police officer that was overturned on appeal" and "any document in the possession of the department that relates to a charge of misconduct against a . . . police officer that the department did not sustain." You inform us that an internal affairs investigation is in progress regarding the allegations raised by the requestor. You also state that "the taped conversation is a part of the IAD investigation." Therefore, as these charges have not yet been sustained by the department, the city must withhold the tape from disclosure under section 552.101 in conjunction with section 143.1214(b) of the Local Government Code.

¹We note that the city has withdrawn its 552.103 objection.

Because we are able to make a determination under section 552.101, we do not address your other arguments against disclosure. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script, appearing to read "June B. Harden".

June B. Harden
Assistant Attorney General
Open Records Division

JBH/alg

Ref.: ID# 110175

Enclosures: Submitted documents/tape

cc: Ms. Norma Fransaw
9475 West Sam Houston Parkway South #280
Houston, Texas 77099
(w/o enclosures)